



Tonga

Country Reports on Human Rights Practices - [2001](#)

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The Kingdom of Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The judiciary is independent.

The security apparatus is composed of the Tonga Defense Services (TDS) and a police force. The 430-man TDS force is responsible to and controlled by the Minister of Defense, and the police force is responsible to and controlled by the Minister of Police and Prisons. Some members of the police committed human rights abuses.

The country has a population of approximately 105,000 and a per capita gross domestic product of approximately \$2,200. The economy is based primarily on the cultivation of tropical and semitropical crops. The demand for imported goods and products has led to a substantial trade deficit. This deficit has been offset largely by remittances from Tongans employed abroad, overseas aid, and, to a lesser degree, tourism.

The Government's human rights record was generally poor in several areas, and the principal human rights abuse remained severe restrictions on the right of citizens to change their government. A relatively small group of commoners vocally challenges the Constitution, arguing for a more representative and accountable government. A member of the police repeatedly beat a prisoner in front of other police officers. Police and prosecutors reportedly used repeated postponements of court dates to harass and intimidate government critics. At times the authorities infringed on freedom of speech and of the press. Some women suffer from domestic violence, and discrimination limits the opportunities available to women. The right to form labor unions is restricted by the absence of regulations establishing procedures for their formation.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution forbids torture and inhuman or degrading punishment or other such treatment; however, in August the Supreme Court awarded a prisoner \$7,000 (14,000 pa'anga) as compensation after the Court determined that a police officer beat the prisoner repeatedly in order to elicit a confession. These beatings took place in front of other officers, and the officer threatened the prisoner with death if he complained. As far as is known, the police officer who administered the beatings was not punished.

Prison conditions are Spartan but reflect local living standards. Church representatives and family members

are permitted to visit prisoners. No nongovernmental organizations (NGO's) attempted to monitor prison conditions, and the permissibility of such visits has not arisen.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this is observed in practice. There are no statutory limits to the length of time a suspect may be held prior to being charged; however, there were no reports of preventative detention or other lengthy pretrial detention. The law permits unlimited access by counsel and family members to detained persons.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice. The judiciary generally provides citizens with a fair and efficient judicial process. The judiciary, whose top judges historically have been foreigners, is independent of the King and the executive branch. Judges hold office "during good behavior" and otherwise may not be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates' courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeals, as the appellate court of last resort, is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason.

The law provides for the right to a fair public trial, and the Government generally respects this in practice. A court may not summon anyone without providing the person a written indictment stating the offenses the person is accused of committing. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

The police, in cooperation with government prosecutors, allegedly use repeated postponement of court dates and the filing of frivolous charges as a means to intimidate government critics. In one case, a human rights activist was scheduled to appear in court in March as a witness to a theft. He wrote a letter to a newspaper criticizing the Police Ministry and subsequently was charged with abetting theft (see Section 2.a.). His hearing was postponed several times during the year, and he was prevented from traveling out of the country until December, when a magistrate permitted him to visit family members living outside the country.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respects these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights. In March a citizen who was scheduled to appear in court as a witness to a theft wrote a letter to a newspaper criticizing the Police Ministry and subsequently was charged with abetting theft (see Sections 1.e. and 2.d.).

There are eight newspapers and newsmagazines in print: Three weeklies (one of which is government owned); three monthlies; one bimonthly; and one quarterly. There are two privately owned television stations and one government-owned station. The Government owns a radio station, which broadcasts on both AM and FM frequencies. There are three privately owned radio stations.

While there is little editorializing in the government-owned media, opposition opinion appears regularly in the form of letters to the editor alongside government statements and letters. The law allows government officials

to bring defamation suits, and suits by such officials and other individuals against media outlets for allowing interviewees to voice allegedly defamatory remarks may have the practical effect of limiting freedom of speech. During the year, government officials filed several defamation suits against the media. However, the national media from time to time carries comments critical of government practices and policies, including some made by prominent citizens.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The Tonga Broadcasting Commission (TBC) maintains policy guidelines regarding the broadcast of religious programming on Radio Tonga. The TBC guidelines state that in view of "the character of the listening public," those who preach on Radio Tonga must confine their preaching "within the limits of the mainstream Christian tradition." This policy applies to all churches. Due to this policy, the TBC does not allow members of the Baha'i Faith to discuss the tenets of their religion, or to refer to the founder, Baha'ullah, by name. Similarly, the TBC does not allow the Mormon Church to discuss its founder, Joseph Smith, or the Book of Mormon by name. Mormons utilize Radio Tonga for the announcement of church activities and functions. Other faiths also utilize Radio Tonga. Members of the Baha'i Faith utilize a privately owned radio station for program activities and the announcement of functions. A government-owned newspaper occasionally carries news articles about Baha'i activities or events, as well as those of other faiths.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respects them in practice. Citizens are free to travel at will within the country and abroad. However, in March a government critic was prevented from traveling abroad by the repeated postponement of the court case in which he was involved (see Sections 1.e. and 2.a.). In December following special representations to a magistrate, he was permitted to visit relatives residing outside the country.

No person is known to have applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominate political life. They assert authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, the King at times permits "the system" to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is made up of nine ministers and two governors; it includes both nobles and commoners, who serve at the King's pleasure.

The unicameral Legislative Assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. In 2000 the King appointed his son, Prince Ulukalala Lavaka Ata, as Prime Minister. As Prime Minister, the Prince also holds five other ministerial portfolios, including those of defense and foreign affairs.

Cabinet members and nobles usually vote as a bloc; however, votes related to impeachment charges against a commoner member of the Cabinet demonstrated that nobles and the representatives of the general population may override the Cabinet's wishes at times. During the year, the establishment of a Parliamentary Committee of Inquiry into a national trust fund account led to the September resignations of the Minister of Justice and the Minister of Education from both their cabinet portfolios and from their positions as trustees of the account.

Very few citizens challenge the retention of the monarchy; the King is greatly respected. However, in recent years, a number of persons both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability. A prodemocracy movement continued during the year, although it lacks formal structure due to differences of views among its leaders. All nine current representatives of the general population advocate various degrees of democratic reform. Proposals for constitutional revision tend to center on the popular election of all parliamentarians, with the parliamentarians then selecting their speaker. In January the Prime Minister announced that the King had directed the formation of three Cabinet committees to examine the core functions of the government under the Constitution and the law, examine the government's other functions, and review the structure of the civil service. No public input was solicited, and the results of the review (which were to be completed in March) had not been announced by year's end.

The percentage of women in government and politics does not reflect accurately their numbers in the population. No woman has ever served as a government minister. There are no female Members of Parliament, although there have been in the past.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no legal barriers to the formation of domestic NGO's that concern themselves with human rights. Some domestic NGO's include among their interests human rights problems, although none undertakes investigations of alleged violations. No international NGO's are known to have made requests to investigate alleged human rights violations.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Social, cultural, and economic facilities are available to all citizens regardless of race or religion; however, members of the hereditary nobility have substantial advantages, including control over most land and a generally privileged status. Nonetheless it is possible for ordinary citizens to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

Women

Domestic violence seldom is publicized, but it is a problem, and anecdotal reports suggest that it is increasing. Incidents of wife beating generally are addressed in traditional ways within families or by village elders. Such abuse seldom is reported to the police. Abused wives sometimes return to their families if mediation fails. Cases of domestic violence could be prosecuted under laws against physical assault. There are shelters for abused and troubled women, most church affiliated, and the Free Wesleyan Church runs a hot line for "women in trouble."

Rape is punishable by imprisonment for a term of up to 15 years' imprisonment. However, the law does not recognize domestic rape and specifically states that "carnal intercourse by a man and his wife shall not under any circumstance be deemed rape." During 2000 the police report a marked increase in reports of rape and attempted rape, as well as in such crimes as attempt to have carnal knowledge and indecent assault, and indecent assault upon a child.

Prostitution, which is illegal, also reportedly was increasing.

The country is male dominated, and women generally occupy a subordinate role. For a woman to rise to a position of leadership, she usually must have the support of the nobility or to possess exceptional talent. The King's mother reigned for many years, and a royal princess is one of the country's most prominent businesspersons. Some female commoners hold senior leadership positions in business. Sexual harassment as such is not a crime, but physical sexual harassment can be prosecuted as indecent assault.

Inheritance laws, especially those dealing with land, discriminate against women. Women may lease but not own land. Under the inheritance laws, the claim to his father's estate of a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter.

The Women and Development Center (formerly the Women's Affairs Unit) in the Prime Minister's office was established in 1993. Although some NGO's initially viewed this unit with suspicion, it appeared to be functioning cooperatively with them. It includes as its objectives the promotion of "the full and equal participation of men, women, and children in economic, social, and cultural development" and the integration of women into the mainstream and enhancing their economic status and role in the economy. Many young,

educated women still consider the unit to be ineffective. A government-sponsored National Council of Women has conducted training workshops, especially in rural areas, and contributed to women's social and economic needs.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focuses on improving the economic and social conditions of women and offers an advisory service to women "in crisis."

Children

The Government is committed to children's human rights and welfare and provides commensurate funding for children's welfare within the context of the total resources available to it. Education is compulsory from ages 6 to 14. Although it is sometimes criticized as being of poor quality, education is provided for all children through Form 6 (high school). Almost all children attend school.

The Government provides free basic medical care to children. Child abuse is rare and has not become a source of concern in a society in which the extended family participates in child rearing.

Persons with Disabilities

There are no mandated provisions for accessibility to buildings and services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

National/Racial/Ethnic Minorities

In 2000 a member of the royal family commented publicly on what he called the country's "racially based land laws" (foreigners are prohibited constitutionally from owning or leasing land) and stated that a previous spate of violence against Chinese-owned shops was racially motivated. Later in 2000, the hereditary noble of a district in the western part of Tongatapu announced that Chinese-owned stores were banned from his district, and at approximately the same time, the Ministry of Labor, Commerce, and Industries froze the issuing of new licenses for small-scale retail stores. The freeze on issuing new licenses subsequently was lifted, but the hereditary noble's ban (which includes Tongans from outside the district as well) continues at year's end.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to form unions under the 1963 Trade Union Act; however, regulations establishing the procedures under which unions may be formed never have been promulgated, and there are no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association are incorporated under the Incorporated Societies Act. However, they have no formal bargaining rights under that act.

The 1963 Act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no strikes during the year.

b. The Right to Organize and Bargain Collectively

Since no unions have been formed, collective bargaining is not practiced.

Labor laws and regulations are enforced in all sectors of the economy, including in the two small export zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor including forced and bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

Although there is no legislation prohibiting child labor, it does not exist in the wage economy. The Government prohibits forced and bonded labor by children, and such practices are not known to occur (see Section 6.c.).

The country is not a member of the International Labor Organization (ILO) and therefore has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limit the workweek to 40 hours. The Ministry of Labor enforces laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands is limited.

Industrial accidents are rare, since few industries exist that would expose workers to significant danger; thus, the Government seldom addresses industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

f. Trafficking in Persons

The law does not specifically address trafficking in persons; however, there were no reports that persons were trafficked to, from, or within, the country.